

REMARKS

Applicant has carefully reviewed the above-noted Office Action, and respectfully traverses rejection of Claims 1-4, 8, 9, 12, 13, and 16-18 based on the cited prior art, and objection to Claims 5-7, 10, 11, 14, 15, 19 and 20. Reconsideration and favorable action is respectfully requested.

Applicant respectfully traverses the rejection of Claims 12-15 under 35 U.S.C. §112. Claim 12 sets forth a seal in lines 14-15, as extending between the fluid displacement member and the apertures into the cylinder. Applicant notes that such a seal is shown in FIG. 1, and discussed in the present application in paragraph 14, in the portion on page 12, in reference to seal assemblies 80 and 82. Applicant further notes that U.S. Patent No. 6,3889,341, invented by Leo W. Davis, and issued on May 12, 2003 (“the ‘341 patent”) is incorporated by reference in the first full paragraph on page 4 of the present application, and discloses seal assemblies in FIGS. 7, 9 and 10 of the ‘341 patent, which is discussed on the ‘341 patent at column 8, lines 9-31. Applicant respectfully submits that a person skilled in the relevant art would understand the meaning of the term “seal” as set forth in Claim 12, lines 14-15 without reference to the ‘341 patent. Applicant requests reconsideration and withdrawal of the rejection of Claims 12-15 under 35 U.S.C. §112.

Applicant respectfully traverses rejection of Claims 1-4 under 35 U.S.C. 103(a). Applicant submits that Claim 1 includes limitations neither taught nor suggested by either Rubel or Gordaninejad et al. Namely, Claim 1 sets forth limitations of a secondary fluid chamber in fluid communication with the primary fluid chamber, on opposite sides of the damper element. Gordaninejad et al. does not include a secondary fluid chamber as set forth in Claim 1, and Applicant respectfully notes the Examiner cited Gordaninejad et al. for disclosing an MR fluid for use in a strut, and not for the structure relating to a secondary chamber and a primary chamber in fluid communication on opposite sides of the damper element. Rubel teaches away from the limitations of the present invention Claim 1 which set forth the secondary fluid chamber being in fluid communication with opposite sides of the damper element, and instead teaches to provide a first valve 21 in the piston 7, a second valve 22 in the bottom wall 10 of the first work chamber

5, and a control slide 35 between the annular conduit 16 and the compensation chamber 12. A second limitation of Claim 1 neither taught nor suggested by Rubel is to controlling both an effective pressure of the compressible fluid within the primary fluid chamber and an intensity of the electromagnetic field. This limitation provides for control both load carrying capability and dampening characteristics for the strut of Claim 1, in combination with use of a compressible MR fluid. Rubel discloses and teaches only control of dampening characteristics, and not control of load carrying capability provided by controlling the effective pressure of the compressible fluid in a strut. The above-noted combined limitation are neither taught nor suggested by the cited prior art. Claims 2-4 depend from Claim 1, and incorporate the above-noted limitations. Applicant requests reconsideration and withdrawal of the rejection of Claims 1-4 under 35 U.S.C. 103(a).

Applicant respectfully traverses rejection of Claims 8, 9, 12, 13, and 16-18 under 35 U.S.C. 103(a). Applicant submits that independent Claims 8, 12 and 16, similar to Claim 1 noted above, include limitations which are neither taught nor suggested by either Rubel, Gordaninejad et al., or Davis. Namely, each of Claims 9, 12 and 16 set forth limitations of a secondary fluid chamber in fluid communication with the primary fluid chamber, on opposite sides of the damper element. Gordaninejad et al. does not include a secondary fluid chamber as set forth in Claim 1, and Applicant respectfully notes the Examiner cited Gordaninejad et al. for disclosing an MR fluid for use in a strut, and not for the structure relating to a secondary chamber and a primary chamber in fluid communication on opposite sides of the damper element. Davis also does not disclose a secondary fluid chamber, nor use of an ER or MR fluid. As noted above in reference to Claim 1, Rubel teaches away from the limitations of the present invention Claim 8, 12 and 16, which set forth the secondary fluid chamber being in fluid communication with opposite sides of the damper element, and instead teaches to provide a first valve 21 in the piston 7, a second valve 22 in the bottom wall 10 of the first work chamber 5, and a control slide 35 between the annular conduit 16 and the compensation chamber 12.

A second limitation of Claims 8, 12 and 16 which is neither taught nor suggested by Rubel is to controlling both an effective pressure of the compressible fluid within the primary

fluid chamber and an intensity of the electromagnetic field. This limitation provides for control both load carrying capability and dampening characteristics for the strut of Claim 1, in combination with use of a compressible MR fluid. Rubel discloses and teaches only control of dampening characteristics, and not control of load carrying capability provided by controlling the effective pressure of the compressible fluid in a strut. Davis teaches use of a sealed primary chamber and a compressible fluid, and not use of either an ER fluid or an MR fluid. Davis teaches away from combination with Rubel, that opposite ends of the sealed primary fluid chamber of Davis are sealed from fluid communication, except through the damper element mounted to the displacement member. Applicant submits that the combined limitations of Claims 8, 12 and 16 are neither taught nor suggested by the prior art of record, but instead that as noted above, the cited references teach away from the invention set forth in Claims 8, 12, and 16.

Since Claims 13, 17 and 18 depend from respective ones of Claims 8, 12 and 16, and incorporate the limitations thereof, Applicant respectfully submits that Claims for the reasons set forth above in reference to independent Claims 8, 12 and 16. Applicant requests reconsideration and withdrawal of the rejection of Claims 8, 9, 12, 13, and 16-18 under 35 U.S.C. 103(a).

Applicant further respectfully notes that combination of the cited prior art references would not provide an operative strut. Applicant respectfully submits for the Examiner's consideration that the structure of Rubel in combination Gordaninejad et al. would not provide an operative unit as disclosed in pending Claims 1-20. The valving of Rubel would render Gordaninejad et al. inoperative. Similarly, the valving of Rubel would render the struts of Davis inoperative.

Since Claims 13, 17 and 18 depend from respective ones of Claims 8, 12 and 16, and incorporate the limitations thereof, Applicant respectfully submits that Claims for the reasons set forth above in reference to independent Claims 8, 12 and 16. Applicant requests reconsideration and withdrawal of the rejection of Claims 8, 9, 12, 13, and 16-18 under 35 U.S.C. 103(a).

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RESPONSE TO OFFICE ACTION

Applicant respectfully submits since Claims 1-4, 8, 9, 12, 13, and 16-18 are allowable over the prior art of record for the reasons set forth above, Claims 5-7, 10, 11, 14, 15, 19 and 20 are no longer objectionable for being dependent upon rejected base claims. Applicant requests reconsideration and withdrawal of the objection to Claims 5-7, 10, 11, 14, 15, 19 and 20.

Applicant requests a telephone interview with the Examiner should the Examiner not find the present application in condition for allowance, and requests that the Examiner kindly contact Applicant's attorney listed below to arrange an appropriate time to discuss any substantive issued pending in the Application after entry and consideration of this Response.

Applicant has now made an earnest attempt to place the application in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the pending claims and that the Application proceed to issuance.

The U.S. Patent & Trademark Office is hereby authorized to charge any fees due or credit any overpayments to Deposit Account No. 502112/DTIN-27,616US for the firm HANDLEY LAW FIRM, PLLC.

Respectfully submitted,

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